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**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

MEETING DATE October 2, 2015 LOCAL EFFECTIVE DATE October 16, 2015 APPROX FINAL EFFECTIVE DATE September 6, 2015	CONTACT/PHONE James Caruso (805) 781-5702 jcaruso@co.slo.ca.us	APPLICANT Forster-Gill, Inc	FILE NO. DRC2014-00140
SUBJECT Hearing to consider a request by Forster-Gill Inc. for a Minor Use Permit/Coastal Development Permit to allow additional restaurant seating and facilities (capacity to remain unchanged at 100 persons), changes to hours to allow for an additional 30 minutes of operating time and 90 minutes for cleanup, allow outdoor amplified music and temporary rain covers over seating areas. The project will result in the disturbance of the entire approximately 1,800 square foot parcel. The proposed project is within the Commercial Retail land use category and is located at 262 Front Street within the community of Avila Beach. The site is in the San Luis Bay Coastal planning area.			
RECOMMENDED ACTION Approve Minor Use Permit DRC2014-00140 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION A Class Three Categorical Exemption was issued on August 25, 2015 (ED 15- 051).			
LAND USE CATEGORY Commercial Retail	COMBINING DESIGNATION Local Coastal Program, Coastal Appealable Zone, Visitor Serving Area, Central Business District, Coastal Special Community, Archaeologically Sensitive	ASSESSOR PARCEL NUMBER 076-222-018	SUPERVISOR DISTRICT(S) 3
PLANNING AREA STANDARDS: Avila Beach Specific Plan <i>Does the project meet applicable Planning Area Standards: YES</i>			
LAND USE ORDINANCE STANDARDS: Local Coastal Program, Coastal Appealable Zone, Height, Setbacks, and Parking <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ Fax: (805) 781-1242			

Planning Department Hearing
 Minor Use Permit DRC2014-00140/Forster-Gill, Inc
 Page 2

FINAL ACTION

This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14-calendar day local appeal period after the administrative hearing. The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.

EXISTING USES:

Existing restaurant; partially vacant

SURROUNDING LAND USE CATEGORIES AND USES:

North: Commercial Retail; Residences *East:* Commercial Retail; Hotel
South: Recreation, Beach/Pacific Ocean *West:* Commercial Retail; Retail businesses

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT:

The project was referred to: Public Works, Building Division, Avila Community Services District, California Coastal Commission, and the Avila Valley Advisory Committee

TOPOGRAPHY:

Nearly level to moderately sloping (fill)

VEGETATION:

Disturbed soils

PROPOSED SERVICES:

Water supply: Avila CSD
 Sewage Disposal: Avila CSD
 Fire Protection: Cal Fire

ACCEPTANCE DATE:
 August 15, 2015

DISCUSSION**Project Description**

This permit application proposes the following:

- a. Expand restaurant footprint into the adjacent undeveloped portion of the site by 1800 sq ft for outdoor seating area.
- b. The existing capacity of the restaurant remains unchanged at 100 people.
- c. 40 of the 100 allowable seats may be in the new outdoor seating area.
- d. A garden area at the rear of the expansion area.
- e. Outdoor amplified music until 10:00 p.m.
- f. Amend restaurant closure from 10:30 p.m. to 11:00 p.m.
- g. Clean up time (after closure) for 90 minutes after close. Clean up activities must end by 12:30 a.m.)
- h. Allow temporary rain covers over solar panels during rainy season.

The proposed seating area will be used to spread the existing restaurant's 100 person capacity from 750 square feet into a larger vacant area of the property allowing for a total of 2,250 square feet of seating area for the restaurant. In addition, a proposed herb garden will be

Planning Department Hearing
Minor Use Permit DRC2014-00140/Forster-Gill, Inc
Page 3

located on the north side of the property which is adjacent to an existing residence in an effort to create a buffer area between the residence as well as an amenity for the restaurant use.

PLANNING AREA STANDARDS:

Avila Beach Specific Plan Standards:

Avila Beach Specific Plan – Front Street Commercial District Area Standards: Design guidelines for Front Street promote an interesting and varied streetscape to encourage public gathering spaces. *The restaurant located at the street-side corner of the site, provides ample outdoor seating with ocean views that provides a place for human interaction.*

Front Street Setbacks – No new structures are proposed in this application. Restaurant seating and facilities in the expansion area are shown on the proposed site plan.

Height Limits – The maximum height for a structure in the Front Street Commercial District is 15 feet as measured from the “main street frontage” which is defined as the frontage on Front Street. No new structures are proposed in this application.

Building Style and Materials – Buildings shall be articulated with three dimensional detailing using window moldings, cornices, awnings and trellises. *The existing building provides trellises and overhangs to meet this standard.*

Building Materials – This standard emphasizes the use of stucco, painted wood, lap siding and tile. The structure consists of Hardie board horizontal siding with copper cap flashing and painted wood trim, so the project meets this standard.

Roof Types/Detailing/Materials – This standard discourages continuous rooflines and jutting and large scale roofs along with reflective materials. The existing structure has grey, composite shingles with a mixture of flat and gabled roof elements which meets this standard.

Overhangs and Awnings – These features are encouraged as part of a project design. The existing structure has overhangs which meets this standard.

Building Scale – Buildings should give the appearance of being separate structures on 25-foot or 50-foot wide lots. The proposed outdoor seating area and the exiting restaurant appear as separate 25 foot wide developed lots.

Windows and Openings – Promote large amounts of windows along Front Street. The existing restaurant provides large amounts of glass along Front Street. The proposed outdoor seating area also has windows all along its sidewalk frontage.

Landscaping – Landscaping is encouraged to provide “breaks from the built environment”. The site plan shows landscaping along and a garden as part of the proposed outdoor seating area.

Signage - No additional signage is proposed.

Planning Department Hearing
Minor Use Permit DRC2014-00140/Forster-Gill, Inc
Page 4

Parking Requirements – Non-residential projects are not required to provide on-site parking, but must pay in-lieu parking fees or provide off-site parking through a shared parking agreement for any required parking. No increase in capacity is permitted as part of this permit application. No additional parking fees are required for this project.

LAND USE ORDINANCE STANDARDS:

Regulations regarding setbacks, height limitations, landscaping and signs are all superseded by Avila Beach Specific Plan standards.

Noise: The applicant requests outdoor amplified music be allowed on the site. There is a noise sensitive use (residence) located adjacent to the site on the north. Outdoor amplified music is allowed as long as all noise from the project meets the Noise Element standards. Noise levels cannot be higher than 65 dBa at the rear property line. Monitoring is required to ensure compliance with this standard.

Parking – As discussed above, no additional parking is required.

Combining Designations – The project is located in the following areas: Archaeologically Sensitive, Coastal Appealable, Central Business District, Coastal Special Community, Front Street Commercial District and Local Coastal Program.

Archaeologically Sensitive Area – Sites within this area require a preliminary site survey. A Cultural Resource Survey was completed (Singer and Associates, Inc., March 2012). The survey found no evidence of cultural resources and no mitigation measures were recommended.

Coastal Appealable Zone – Permits issued by the County in this area are appealable to the California Coastal Commission.

Central Business District/Front Street Commercial District – Specific standards within the Avila Beach Specific Plan for this area are discussed in detail above.

Local Coastal Program – The site is within the Local Coastal Program area and is subject to the provisions of the California Coastal Act of 1976 and the County's Coastal Land Use Ordinance.

COASTAL PLAN POLICIES:

Following is a brief list of the Coastal Plan Policies (discussion of specific applicable policies following):

Shoreline Access: ☒ N/A

Recreation and Visitor Serving: Policy No. 2

Energy and Industrial Development: ☒ N/A

Commercial Fishing, Recreational Boating and Port Facilities: ☒ N/A

Environmentally Sensitive Habitats: ☒ N/A

Agriculture: ☒ N/A

Public Works: Policy No(s): 1

Coastal Watersheds: Policy No(s): 8 & 10

Visual and Scenic Resources: ☒ N/A

Planning Department Hearing
Minor Use Permit DRC2014-00140/Forster-Gill, Inc
Page 5

Hazards: ☒ N/A
Archeology: ☒ N/A
Air Quality: ☒ N/A

Recreation and Visitor-Serving:

Policy 2: Priority for Visitor-Serving Facilities. Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use, but not over agriculture or coastal dependent industry in accordance with PRC 30222. *The proposed project is a restaurant expansion with a request for outdoor amplified music. This use is consistent with an area focused on visitor serving uses.*

Public Works:

Policy 1: Availability of Service Capacity applies to the project. *The applicant is conditioned to supply a water and sewer will-serve letter from the Avila Community Services District for any additional water fixtures.*

Coastal Watersheds:

Policy 8: Timing of new construction: *The proposed project is consistent with this policy because if grading is to occur or left unfinished between October 15 through April 15 the project is required to have an erosion and sedimentation control plan and all sedimentation and erosion control measures will be in place before the start of the rainy season.*

Policy 10: Drainage Provisions: *The proposed project is consistent with this policy because the project is required to have a drainage plan that shows the construction of the outdoor seating area will not increase erosion or runoff.*

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned.

COMMUNITY ADVISORY GROUP COMMENTS: The Avila Beach committee recommended approval for the proposed project at the August 10, 2015 meeting.

AGENCY REVIEW (those received):

Public Works – Avila Road fee area; drainage review required; Recommend approval
Coastal Commission – No comments

Staff Report prepared by James Caruso and reviewed by Ryan Hostetter.

EXHIBIT A - FINDINGS

California Environmental Quality Act

- A. The project qualifies for a Categorical Exemption (Class 3) pursuant to CEQA Guidelines Section 15301 because the proposed development is an outdoor seating expansion of an existing restaurant with no increase in capacity and will result in a total restaurant seating area of 2250 square feet.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed project will not increase restaurant capacity, will use the non-seating herb garden to buffer the adjacent residential use in a commercial category from the expanded outdoor seating area and will not generate noise levels in violation of the County Noise Element.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the use is a commercial, visitor serving use in a commercial and visitor-serving designation and is located adjacent to or near motels, restaurants, offices and other commercial and visitor serving uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Front Street, a collector road with adequate capacity to serve the development.

Coastal Access

- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

**EXHIBIT B - CONDITIONS OF APPROVAL
DRC2014-00140**

Authorized Use

1. This permit authorizes:
 - a. Expand restaurant use into the adjacent undeveloped portion of the site by 1800 sq ft. for a total restaurant size of 2,550 square feet.
 - b. The existing capacity of the restaurant remains unchanged at 100 people.
 - c. 40 of the 100 allowable seats may be in the expansion area.
 - d. A garden area at the rear of the expansion area.
 - e. Outdoor amplified music until 10:00 p.m.
 - f. Amend hours of operation from 10:30 p.m. close to 11:00 p.m.
 - g. Clean up time (after closure) for 90 minutes after close. Clean up activities must end by 12:30 a.m.
 - h. Allow temporary rain covers over solar panels from October 15 to April 15.
2. This project shall be consistent with the approved site plan, floor plan, and elevations.

Access

3. **At the time of application for construction permits**, and in accordance with 23.05.106 (Curb Gutter and Sidewalk) the applicant shall submit plans to the Department of Public Works to secure an Encroachment Permit to reconstruct, if necessary, all deteriorated or non-compliant parent parcel frontage improvements.

Fees

4. **On-going condition of approval (valid for the life of the project)**, and in accordance with Title 13.01 of the County Code, the applicant shall be responsible for paying to the Department of Public Works the Avila Beach Road Impact Fee. The fee shall be imposed at the time of application for building permits and shall be assessed for each building permit to be issued. These fees are subject to change by resolution of the Board of Supervisors. The applicant shall be responsible for paying the fee in effect at the time of application for building permits.

Drainage

5. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section or 23.05.040 (Drainage) of the Land Use Ordinance.
6. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Title 23.

7. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.
8. **On-going condition of approval (valid for the life of the project)**, the project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and / or Phase II storm water program and the County's Storm Water Pollution Control and Discharge Ordinance, Title 8, Section 8.68 et sec.

Stormwater Control Plan

9. **At the time of application for construction permits**, the applicant shall demonstrate whether the project is subject to the LUO Section for Stormwater Management. Applicable projects shall submit a Stormwater Control Plan (SWCP) prepared by an appropriately licensed professional to the County for review and approval. The SWCP shall incorporate appropriate BMP's, shall demonstrate compliance with Stormwater Quality Standards and shall include a preliminary drainage plan, a preliminary erosion and sedimentation plan. The applicant shall submit complete drainage calculations for review and approval.
10. **Prior to issuance of construction permits**, if necessary, the applicant shall record with the County Clerk the "Private Stormwater Conveyance Management and Maintenance System" to document on-going and permanent storm drainage control, management, treatment, disposal and reporting.

Fire Safety

11. The applicant shall provide the county Department of Planning and Building with a fire safety plan approved by Cal Fire.

Landscape Plan

12. The applicant shall submit for Planning Director review and approval, a Landscape Plan that provides for the planting of all open areas of the site disturbed by project activities with native, drought and fire resistant species that are compatible with the habitat values of the surrounding forest. In addition, non-native, invasive, and water intensive (e.g. turf grass) landscaping shall be prohibited on the entire site.

Noise

13. Outdoor amplified music is allowed from 9:00 a.m. to 10:00 p.m. At no time may noise levels exceed 65 dBA at the rear (northerly) property line.
14. The final design of the project shall be consistent with the Avila Beach Specific Plan.

Hours of Operation

15. The business may operate on the following schedule:
 - a. November 1 – April 30 – Inside 7 a.m. to 11:00 p.m.
Patio – 7:00 a.m. to 8:30 p.m.
 - b. May 1 – October 30 – Inside – 7:00 a.m. to 11:00 p.m.
Patio – 7:00 a.m. to 9:30 p.m.
 - c. During the first 30 days of operation of the expanded outdoor area, the applicant shall retain a noise consultant approved by the County to conduct noise analysis of the restaurant operation and amplified outdoor music on two Fridays and two Saturdays in the initial 30 days of operation. The noise consultant shall prepare and submit a report to the County within the second 30 days of operation identifying noise levels recorded throughout the restaurant's operational hours including set up and post closure clean up. Any aspect of the outdoor area that violates the noise element noise levels shall be discontinued immediately. Outdoor amplified music shall cease after 60 days unless the Department allows the outdoor music to continue based on the results of the noise analysis.
16. All clean up and maintenance activities must be completed within 90 minutes of closing time. Kitchen operations shall commence no earlier than 6:30 a.m. daily. Outside setup is to start no earlier than 6:45 a.m. All noise associated with the interior kitchen activities shall be confined to the structure. Doors and windows are to be kept closed during prep times.

Lighting

17. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored

Miscellaneous

18. This permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050. This permit is generally considered to be vested once a building permit has been issued and substantial site work has been completed. Substantial site work is defined (Section 23.02.042) as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade ('sticks in the air').
19. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of

these conditions of approval have occurred or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Coastal Zone Land Use Ordinance.

Building Division

20. The County Building Division has the following requirements:

- a. A California licensed Architect or Engineer is required to submit the plans for this project per BPC 5536.1.
- b. Prior to issuance of the building permit the expired permit for PMT2013-01237 needs to be finalized and /or reactivated.
- c. Please clarify if the seating area is to be covered or uncovered.
- d. Please provide a building tabulation on the cover sheet of the plans showing the floor area(s) for the existing building /exterior seating and the new seating area.
- e. If the occupant load for the seating area and garden is greater than 49 or more a secondary exit /path of travel will be required. Please clarify the occupant load for the new seating area to verify compliance with CBC Chapter 10.
- f. The accessibility elements throughout will need to be shown on the plans to comply with CBC, including Chapter 11B.
- g. The accessible path of travel to the seating area and garden will need to be accessible to comply with CBC Chapter 11B.
- h. The accessible seating will need to be dispersed throughout for each type of seating functional area per CBC Chapter 11B, including 11B-226.
- i. Provide a plumbing fixture analysis on the plans to verify the existing number of plumbing fixtures is sufficient for the increased occupant load to verify compliance with CPC Section 422, Table 422.1, and Table-A.
- j. It appears there maybe retaining walls for the site. Provide plans which clearly show the structural design to verify compliance with the 2013 California Building Code and referenced standards. The plans and supporting calculations will need to be prepared by a California Licensed Design Professional (Architect or Engineer) justifying the structural design.

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

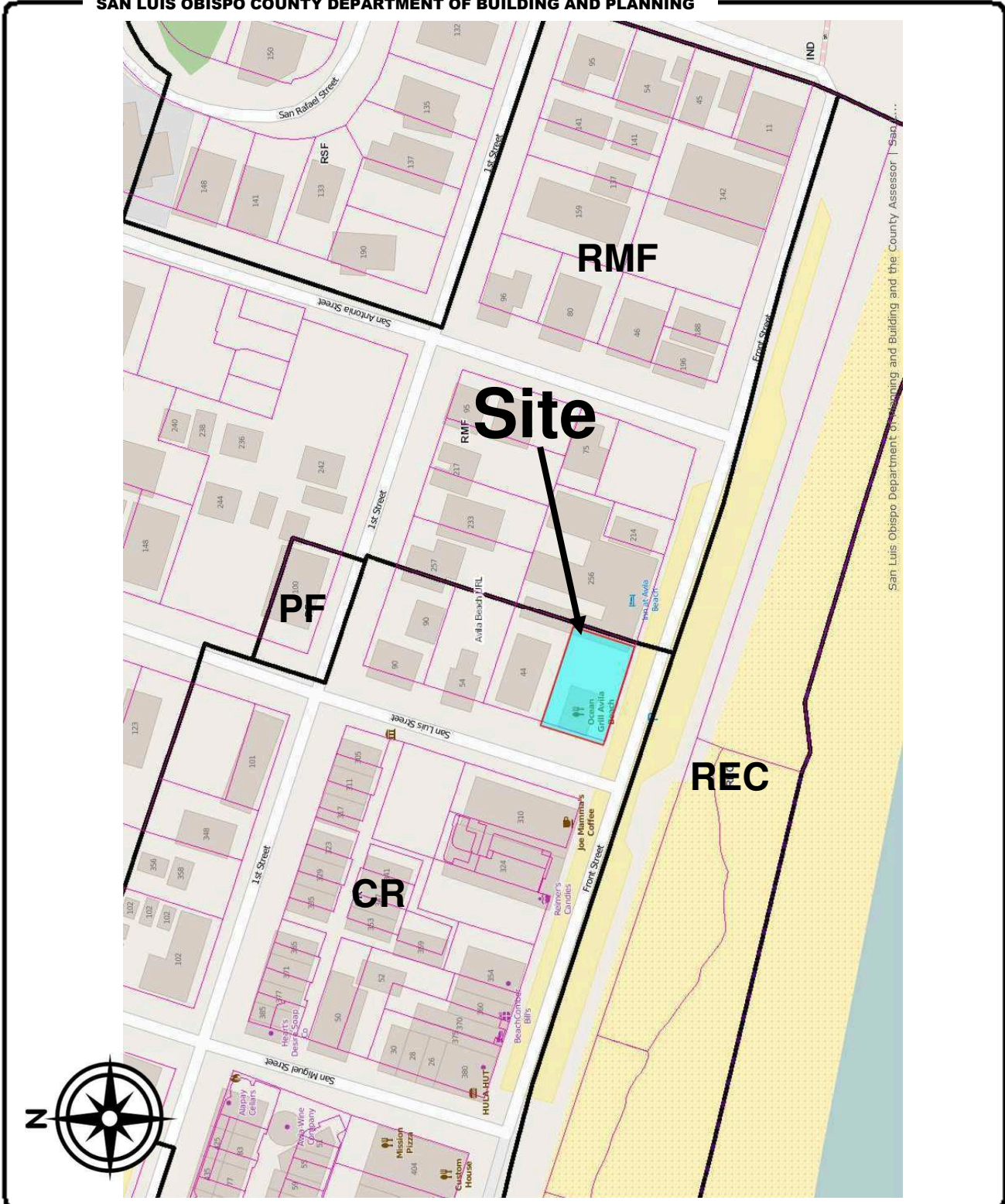
Minor Use Permit/Coastal Development
Permit
FOSTER-GILL / DRC2014-00140



EXHIBIT

Vicinity Map

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

Minor Use Permit/Coastal Development
Permit
FOSTER-GILL / DRC2014-00140



EXHIBIT

Land Use Category Map

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING



PROJECT

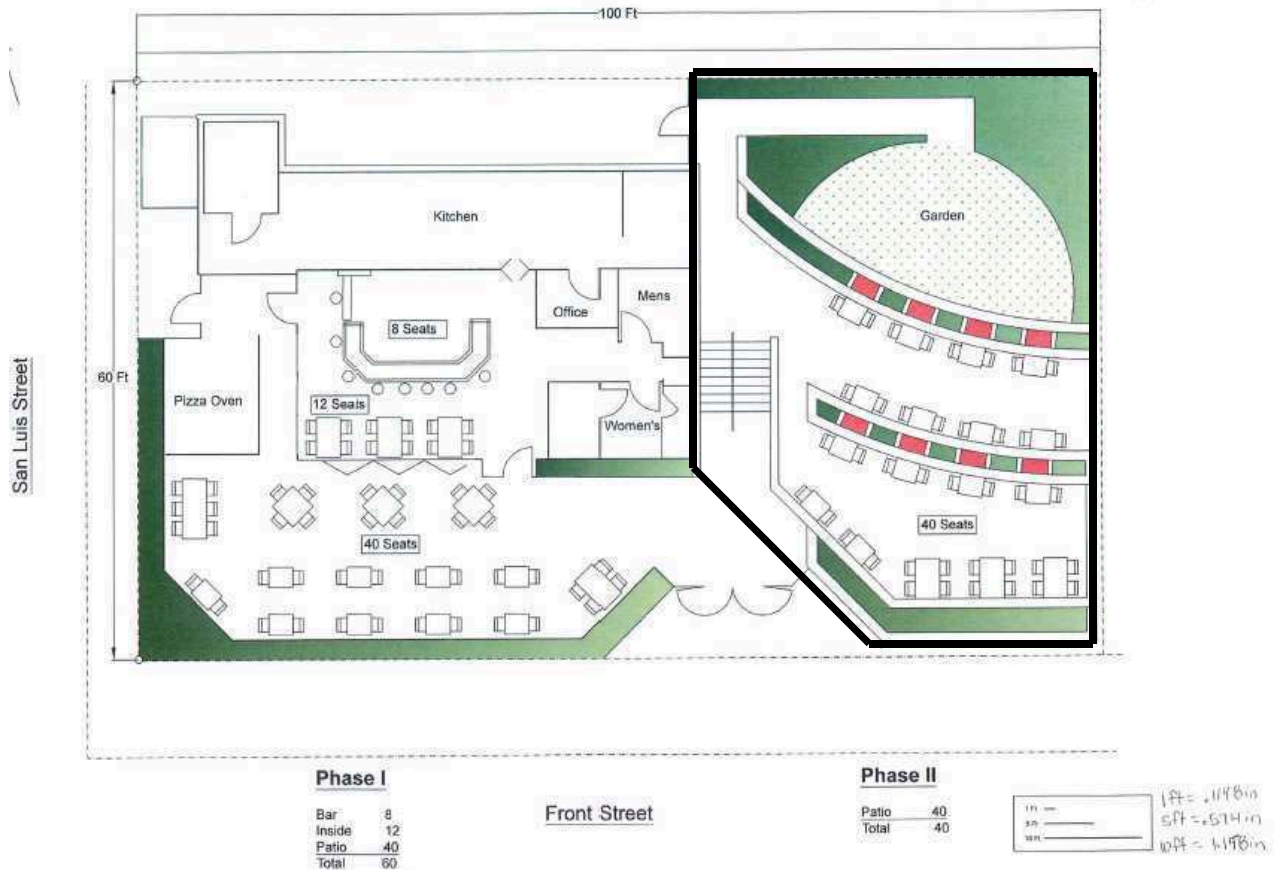
Minor Use Permit/Coastal Development
Permit
FOSTER-GILL / DRC2014-00140



EXHIBIT

Aerial Photograph

SAN LUIS OBISPO COUNTY DEPARTMENT OF BUILDING AND PLANNING

**PROJECT**

Minor Use Permit/Coastal Development
 Permit
 FOSTER-GILL / DRC2014-00140

**EXHIBIT**

Floor Plans / Site Plans

SLO County Planning Department
Attention: James Caruso

SLO COUNTY
PLANNING/BUILDING
DEPT
2015 SEP 29 PM 4:25

APN: 076-222-018
File Number: DRC2014-00140

September 29, 2015

To Whom It May Concern:

I would like to request a hearing on this matter. I am quite concerned with the potential noise and other disturbance that this proposal will create.

Unfortunately, I have for months had reservations to attend a wedding in Utah and will be leaving town on Friday morning, 10/16. There is also at least one other neighbor who is concerned about this proposal and they also will be unable to attend a 10/16 meeting as they will be out of the country. I also have a business meeting in the Bay area on October 30th and cannot attend then either. Any other week between now and Jan 15th would work. I have no idea what control you have over the scheduling of the hearing, but I would very much like to attend as this is a very important proposal that would potentially have a significant impact on the enjoyment (or lack thereof) of my home in Avila Beach.

Thank you for your consideration in this matter.

Respectfully yours,



Fred S. Vernacchia
1930 Valle Vista Place
San Luis Obispo, CA 93405
fredv@sldiagnsotic.com
805-542-0494 (O)
805-235-3591 (C)